



Montana Legislative History

Chapter: 601

Session L: 2023

Checklist of Bill History

Bill Number: 305

House

History and Final Status Sheet

☒

Introduced Bill

☒

Fiscal Note

☐

Third Reading Bill

☒

Final Version of Bill

☒

House

Committee: Business and Labor

Hearing Date(s): January 26, 2023

Committee Report:

Senate

Committee: Business, Labor, and Economic Affairs

Hearing Date(s): March 16, 2023

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: FLR

Date: October 25, 2023

Notes: This legislative history was compiled before the legislature had finalized versions of the session laws.



Montana Legislative History

House	Senate
Committee: Business and Labor	Committee: Business, Labor, and Economic Affairs
Hearing Date(s): January 26, 2023	Hearing Date(s): March 16, 2023
Link to Hearing: Montana Legislature (sliq.net)	Link to Hearing: Montana Legislature (sliq.net)

Bill Draft Number: LC0761

Bill Type - Number: HB 305

Short Title: Generally revise alcohol laws relating to manufacturing and retail

Primary Sponsor: Edward Buttrey (R) HD 21

Chapter Number: 601

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 49

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/19/2023			
(H) Signed by Governor	05/18/2023			
(H) Transmitted to Governor	05/08/2023			
(S) Signed by President	05/04/2023			
(H) Signed by Speaker	04/29/2023			
(C) Printed - Enrolled Version Available	04/24/2023			
(H) Returned from Enrolling	04/24/2023			
(H) Sent to Enrolling	04/20/2023			
(H) 3rd Reading Passed as Amended by Senate	04/20/2023	88	10	
(H) Scheduled for 3rd Reading	04/20/2023			
(H) 2nd Reading Senate Amendments Concurred	04/19/2023	91	9	
(H) Scheduled for 2nd Reading	04/19/2023			
(S) Returned to House with Amendments	04/17/2023			
(S) 3rd Reading Concurred	04/14/2023	38	12	
(S) Scheduled for 3rd Reading	04/14/2023			
(S) 2nd Reading Concurred	04/13/2023	40	10	
(S) Scheduled for 2nd Reading	04/13/2023			
(S) Committee Report--Bill Concurred as Amended	04/07/2023			(S) Business, Labor, and Economic Affairs
(C) Printed - New Version Available	04/07/2023			
(S) Committee Executive Action--Bill Concurred as Amended	04/06/2023	10	0	(S) Business, Labor, and Economic Affairs
(S) Hearing	03/16/2023			(S) Business, Labor, and Economic Affairs
(S) Referred to Committee	03/13/2023			(S) Business, Labor, and Economic Affairs
(S) First Reading	02/10/2023			
(H) Transmitted to Senate	02/10/2023			
(H) 3rd Reading Passed	02/09/2023	95	4	
(H) 2nd Reading Passed	02/08/2023	96	4	
(C) Printed - New Version Available	02/02/2023			

(H) Committee Report--Bill Passed as Amended	02/02/2023		(H) Business and Labor
(H) Committee Executive Action--Bill Passed as Amended	02/02/2023	19	0 (H) Business and Labor
(C) Amendments Available	01/30/2023		
(H) Hearing	01/26/2023		(H) Business and Labor
(H) First Reading	01/24/2023		
(H) Referred to Committee	01/24/2023		(H) Business and Labor
(C) Introduced Bill Text Available Electronically	01/23/2023		
(H) Introduced	01/21/2023		
(C) Fiscal Note Probable	01/21/2023		
(C) Draft Delivered to Requester	01/19/2023		
(C) Draft Ready for Delivery	01/18/2023		
(C) Executive Director Final Review	01/18/2023		
(C) Draft Ready for Delivery	01/18/2023		
(C) Draft in Assembly	01/18/2023		
(C) Executive Director Review	01/17/2023		
(C) Bill Draft Text Available Electronically	01/17/2023		
(C) Draft in Final Drafter Review	01/17/2023		
(C) Draft in Input/Proofing	01/17/2023		
(C) Draft to Drafter - Edit Review	01/17/2023		
(C) Draft in Edit	01/14/2023		
(C) Draft in Legal Review	01/11/2023		
(C) Draft Request Received	10/17/2022		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Lynch	Ryan
Drafter	Walker	Jameson
Primary Sponsor	Buttrey	Edward

Subjects

Description	Revenue/Approp. Vote Majority Req.	Subject Code
Alcohol and Drugs	Simple	ALC

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N

Session Law Ch. Number: 601

DEADLINE

Category: General Bills

Transmittal Date: 03/03/2023

Return (with 2nd house amendments) Date: 04/18/2023

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-JUL-23

HOUSE BILL NO. 305

INTRODUCED BY E. BUTTREY, K. ZOLNIKOV, L. JONES, M. HOPKINS, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-311, AND 16-4-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(10), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

(i) the production of all affiliated manufacturers; and

(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared

1 servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's
2 sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises
3 sample room consumption, including all affiliated manufacturers.

4 (3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

5 (a) that one or more members of the manufacturing entity have more than a majority share interest
6 in or that controls directly or indirectly another beer manufacturing entity;

7 (b) for which the business operations conducted between or among entities are interrelated or
8 interdependent to the extent that the net income of one entity cannot reasonably be determined without
9 reference to operations of the other entity; or

10 (c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or
11 logos are identical or nearly identical.

12 (4) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
13 beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this
14 section. Beer manufactured and sold at the colocated premises does count toward production levels for tax
15 purposes."

16

17 **Section 2.** Section 16-3-214, MCA, is amended to read:

18 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and
19 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon
20 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the
21 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of
22 this code and rules prescribed by the department, to:

23 (a) sell and deliver beer from its storage depot or brewery to:

24 (i) a wholesaler;

25 (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to
26 deliver the beer and if:

27 (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a
28 day to each licensed retailer; and

1 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels
2 a year; or

3 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or
4 growlers;

5 (b) provide its own products for consumption on its licensed premises without charge or, if it is a
6 small brewery, provide its own products at a sample room as provided in 16-3-213; or

7 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

8 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or
9 to licensed retailers.

10 (3) A brewery may import or purchase, upon terms and conditions the department may require,
11 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing
12 purposes.

13 (4) An additional license fee may not be imposed on a brewery providing its own products on its
14 licensed premises for consumption on the premises.

15 (5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a
16 wholesaler in this state under the provisions of 16-3-230.

17 (6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
18 beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-
19 distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises
20 does count toward production levels for tax purposes."

21

22 **Section 3.** Section 16-3-241, MCA, is amended to read:

23 **"16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer**

24 **importers, and wholesalers unlawful -- exceptions.** (1) (a) ~~Except as provided in subsection (3), it is~~

25 unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture,

26 fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used

27 in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to

28 furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture.

Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises."

Section 4. Section 16-3-242, MCA, is amended to read:

"16-3-242. Financial interest in retailers prohibited. (1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler is considered to have a financial interest within the meaning of this section if:

1 ~~(1)(a)~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage
2 against the retailer or the retailer's premises;
3 ~~(2)(b)~~ the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future
4 purchases or the sale of merchandise by one from or to the other; or
5 ~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.
6 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
7 not subject to the limitations of this section for the licensed brewery's retail-licensed premises"
8

9 **Section 5.** Section 16-3-244, MCA, is amended to read:

10 **"16-3-244. Beer advertising limitations.** ~~It~~(1) Except as provided in subsection (2), it is lawful to
11 advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in
12 16-3-241 of this code and subject to the following restrictions on retailers. A retail licensee may not display or
13 permit to be displayed on the exterior portion or surface of the retailer's place of business or on the exterior
14 portion or surface of any building of which the place of business is a part or on any premises adjacent to the
15 place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or
16 advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the
17 manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a
18 marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days
19 per display period.

20 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
21 not subject to the restrictions in subsection (1) at the colocated premises for products manufactured by the
22 licensed brewery."
23

24 **Section 6.** Section 16-3-311, MCA, is amended to read:

25 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
26 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed
27 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,
28 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as

1 provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building
2 by permanent walls but may have inside access to the rest of the building at all times even if the businesses or
3 uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic
4 beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to
5 demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after
6 hours, either by the presence of a lockable door or other security features such as rolling gates, locking
7 cabinets, tap locks, or key card access.

8 (b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of
9 a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

10 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
11 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
12 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.
13 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
14 alteration due to modifications required for approval by other state or local government entities, such as
15 compliance with fire or building codes, the department must be notified, but preapproval is not required for
16 these modifications. An alteration for the purposes of this section is any structural change in a premises that
17 does not increase the square footage of the existing approved premises. An alteration that increases the
18 square footage of the existing approved premises must be approved by the department prior to beginning the
19 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
20 alteration under this section.

21 (3) The interior portion of the licensed premises must be a continuous area that is under the
22 control of the licensee and not interrupted by any area in which the licensee does not have adequate control,
23 and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants
24 in order to allow patrons to access other tenant businesses or private dwellings in the same building, including
25 but not limited to entryways, hallways, stairwells, and elevators.

26 (4) The premises may include one or more exterior patios or decks as long as sufficient physical
27 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional
28 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and

1 impedes foot traffic.

2 (5) Premises suitability does not include a minimum number of seats.

3 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
4 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
5 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
6 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
7 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
8 \$100.

9 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
10 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
11 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
12 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
13 underage service. The application fee is \$100.

14 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the
15 licensees are able to maintain control of their respective premises through adequate physical separation.

16 (9) (a) For the purposes of this section, "adequate physical separation" means:

17 (i) the premises of the retailer and the premises of the brewery or winery are secured after
18 business hours from each other and from any other business, including but not limited to prohibiting a customer
19 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of
20 operation as specified in 16-3-213(2)(b); and

21 (ii) the separation may include doors, gates, or windows that may be left open during business
22 hours.

23 (b) The term does not require permanent floor-to-ceiling walls.

24 (10) For colocated premises authorized in 16-4-401(10), there are no physical separation
25 requirements applied by this code but the licensee shall follow any federal requirements."

26

27 **Section 7.** Section 16-3-411, MCA, is amended to read:

28 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- 1 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
- 2 (b) sell wine it produces at wholesale to wine distributors;
- 3 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off
- 4 the premises;
- 5 (d) provide, without charge, wine it produces for consumption at the winery;
- 6 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine
- 7 it produces;
- 8 (f) obtain a special event permit under 16-4-301;
- 9 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
- 10 under applicable regulations of the United States department of the treasury;
- 11 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy
- 12 of the license;
- 13 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part
- 14 11, directly to an individual in Montana who is at least 21 years of age; or
- 15 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between
- 16 8 a.m. and 2 a.m.
- 17 (2) (a) ~~A-Except as provided in 16-4-401(10)(d), a~~ winery licensed pursuant to 16-4-107 may sell
- 18 and deliver wine produced by the winery directly to licensed retailers if the winery:
- 19 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine
- 20 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;
- 21 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the
- 22 retailer; or
- 23 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:
- 24 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's
- 25 winery or bonded warehouse;
- 26 (B) individual shipments delivered by common carrier are limited to three cases a day for each
- 27 licensed retailer; and
- 28 (C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

- 1 (b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors
2 and retailers, the shipment must be:
- 3 (i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to
4 Montana Licensee";
- 5 (ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good
6 standing; and
- 7 (iii) signed for by the wine distributor or retailer or its employee or agent.
- 8 (c) In addition to any records required to be maintained under 16-4-107, a winery that distributes
9 wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery
10 shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department,
11 reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period,
12 including the names and addresses of consignees or retailers, and other information that the department may
13 determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to
14 the requirements of this code."

15
16 **Section 8.** Section 16-4-311, MCA, is amended to read:

17 **"16-4-311. Distillery license.** (1) The department may, upon receipt of an application, issue a
18 distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act,
19 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture,
20 distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for
21 sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside
22 this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic
23 beverages for blending and manufacturing purposes upon terms and conditions that the department may
24 provide. A licensee may not sell any alcoholic beverage within this state except to the department or as
25 provided in 16-4-312.

26 (2) An agricultural producer or association of agricultural producers or legal agent who
27 manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial
28 alcohol for purposes other than human consumption is not required to obtain a distillery license from the

1 department.

2 (3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product
3 directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees
4 to deliver the product. The amount of product delivered may not be less than a case. The department shall
5 create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency
6 liquor stores must be invoiced by the department for product received from a distillery.

7 (b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each
8 delivery, subject to inspection by the department.

9 (c) The department shall pay the distillery for any product delivered to an agency liquor store:

10 (i) the current freight rate; and

11 (ii) the distiller's current quoted price per case.

12 (d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-
13 401(10), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed
14 by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the
15 colocated premises does count toward production levels for tax purposes."

16

17 **Section 9.** Section 16-4-401, MCA, is amended to read:

18 **"16-4-401. License as privilege -- criteria for decision on application -- colocated licenses.** (1) A
19 license under this code is a privilege that the state may grant to an applicant and is not a right to which any
20 applicant is entitled.

21 (2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8),
22 in the case of a license that permits on-premises consumption, the department shall find in every case in which
23 it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

24 (a) if the applicant is an individual:

25 (i) and the application is approved, the applicant will not possess an ownership interest in more
26 than three establishments licensed under this chapter for all-beverages sales. However, resort retail all-
27 beverages licenses issued under 16-4-213 do not count toward this limit.

28 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in

1 16-1-106;

2 (iii) except as provided in subsection (10), the applicant or any member of the applicant's
3 immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of
4 alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more
5 manufacturer licenses;

6 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
7 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
8 with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv)
9 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
10 protestor when renewing the license;

11 (v) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
12 felony, the applicant's rights have been restored; and

13 (vi) the applicant is not under 19 years of age;

14 (b) if the applicant is a publicly traded corporation:

15 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
16 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
17 applicant shall designate two or more officers or board members, each of whom must meet the requirements
18 for an individual applicant listed in subsection (2)(a).

19 (ii) each individual who has control over the operation of the license meets the requirements for an
20 individual applicant listed in subsection (2)(a);

21 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
22 individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a
23 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
24 subsection (8) apply.

25 (iv) the corporation is authorized to do business in Montana;

26 (c) if the applicant is a privately held corporation:

27 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
28 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the

1 applicant shall designate two or more officers or board members, each of whom must meet the requirements
2 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
3 the requirements of subsection (2)(a).

4 (ii) each individual who has control over the operation of the license meets the requirements for an
5 individual applicant listed in subsection (2)(a);

6 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
7 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
8 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
9 subsection (8) apply.

10 (iv) the corporation is authorized to do business in Montana;

11 (d) if the applicant is a general partnership, each partner must meet the requirements of
12 subsection (2)(a);

13 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
14 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
15 requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
16 limited partners must meet the requirements of subsection (2)(a).

17 (f) if the applicant is a limited liability company, all managing members and those members whose
18 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If
19 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
20 subsection (2)(a).

21 (3) In the case of a license that permits only off-premises consumption and subject to subsection
22 (8), the department shall find in every case in which it makes an order for the issuance of a new license or for
23 the approval of the transfer of a license that:

24 (a) if the applicant is an individual:

25 (i) and the application is approved, the applicant will not possess an ownership interest in more
26 than three establishments licensed under this chapter for all-beverages sales;

27 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
28 16-1-106;

- 1 (iii) the applicant or any member of the applicant's immediate family is without financing from or
2 any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
- 3 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
4 felony, the applicant's rights have been restored;
- 5 (v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
6 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
7 with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v)
8 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
9 protestor when renewing the license; and
- 10 (vi) the applicant is not under 19 years of age;
- 11 (b) if the applicant is a publicly traded corporation:
- 12 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
13 listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
14 designate two or more officers or board members, each of whom must meet the requirements for an individual
15 applicant listed in subsection (3)(a).
- 16 (ii) the corporation is authorized to do business in Montana;
- 17 (c) if the applicant is a privately held corporation:
- 18 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
19 applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the
20 applicant shall designate two or more officers or board members, each of whom must meet the requirements
21 for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet
22 the requirements of subsection (3)(a).
- 23 (ii) the corporation is authorized to do business in Montana;
- 24 (d) if the applicant is a general partnership, each partner must meet the requirements of
25 subsection (3)(a);
- 26 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
27 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
28 requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all

1 limited partners must meet the requirements of subsection (3)(a).

2 (f) if the applicant is a limited liability company, all managing members and those members whose
3 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If
4 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
5 subsection (3)(a).

6 (4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or
7 wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the
8 issuance of a new license or for the approval of the transfer of a license that:

9 (a) if the applicant is an individual:

10 (i) except as provided in subsection (10), the applicant has no ownership interest in any
11 establishment licensed under this chapter for retail alcoholic beverages sales;

12 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
13 16-1-106;

14 (iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
15 felony, the applicant's rights have been restored;

16 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
17 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
18 with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)
19 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
20 protestor when renewing the license;

21 (v) the applicant is not under 19 years of age; and

22 (vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
23 controlled by a manufacturer of an alcoholic beverage;

24 (b) if the applicant is a publicly traded corporation:

25 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
26 listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
27 designate two or more officers or board members, each of whom must meet the requirements for an individual
28 applicant listed in subsection (4)(a).

1 (ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
2 controlled by a manufacturer of an alcoholic beverage; and

3 (iii) the corporation is authorized to do business in Montana;

4 (c) if the applicant is a privately held corporation:

5 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
6 applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the
7 applicant must designate two or more officers or board members, each of whom must meet the requirements
8 for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet
9 the requirements of subsection (4)(a).

10 (ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
11 controlled by a manufacturer of an alcoholic beverage; and

12 (iii) the corporation is authorized to do business in Montana;

13 (d) if the applicant is a general partnership, each partner must meet the requirements of
14 subsection (4)(a);

15 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
16 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
17 requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
18 limited partners must meet the requirements of subsection (4)(a).

19 (f) if the applicant is a limited liability company, all managing members and those members whose
20 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If
21 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
22 subsection (4)(a).

23 (5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)
24 apply separately to each class of stock.

25 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
26 to 16-4-302.

27 (7) An applicant's source of funding must be from a suitable source. A lender or other source of
28 money or credit may be found unsuitable if the source:

1 (a) is a person whose prior financial or other activities or criminal record:

2 (i) poses a threat to the public interest of the state;

3 (ii) poses a threat to the effective regulation and control of alcoholic beverages; or

4 (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
5 business; or

6 (b) has been convicted of a felony offense within 5 years of the date of application or is on
7 probation or parole or under deferred prosecution for committing a felony offense.

8 (8) (a) An individual applying for an all-beverages license or having any ownership interest in an
9 entity applying for an all-beverages license may not, if the application were to be approved, own an interest in
10 more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

11 (b) If two or more individuals through business or family relationship share in the profits or liabilities
12 of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not
13 exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-
14 beverages licenses will be held.

15 (9) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing
16 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
17 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
18 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
19 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
20 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

21 (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and
22 noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

23 (c) It is the intent of this subsection (9) to facilitate the efficient administration of an entity licensed
24 under this code.

25 (10) (a) A licensed brewery or winery may hold complete ownership of up to three retail licenses
26 issued pursuant to 16-4-104 or 16-4-201. The owner of a retail license issued pursuant to 16-4-104 or 16-4-201
27 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated
28 license.

(b) A licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person who holds a license issued pursuant to 16-4-104 may not also hold a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (10), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the colocated retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-104 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licensees may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing licenses and retail licenses without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a person and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located."

NEW SECTION. Section 10. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2023.

68th Legislature 2023

HB 305.1

1

- END -

HOUSE BILL NO. 305

INTRODUCED BY E. BUTTREY, K. ZOLNIKOV, L. JONES, M. HOPKINS, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-311, AND 16-4-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(10), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

(i) the production of all affiliated manufacturers; and

(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared

servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises sample room consumption, including all affiliated manufacturers.

(3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

(a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity;

(b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or

(c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.

(4) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10), beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this section. Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 2. Section 16-3-214, MCA, is amended to read:

"16-3-214. Beer sales by brewers -- sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to:

(a) sell and deliver beer from its storage depot or brewery to:

(i) a wholesaler;

(ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:

(A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and

1 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels
2 a year; or

3 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or
4 growlers;

5 (b) provide its own products for consumption on its licensed premises without charge or, if it is a
6 small brewery, provide its own products at a sample room as provided in 16-3-213; or

7 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

8 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or
9 to licensed retailers.

10 (3) A brewery may import or purchase, upon terms and conditions the department may require,
11 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing
12 purposes.

13 (4) An additional license fee may not be imposed on a brewery providing its own products on its
14 licensed premises for consumption on the premises.

15 (5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a
16 wholesaler in this state under the provisions of 16-3-230.

17 (6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
18 beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-
19 distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises
20 does count toward production levels for tax purposes."

21

22 **Section 3.** Section 16-3-241, MCA, is amended to read:

23 **"16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer**
24 **importers, and wholesalers unlawful -- exceptions.** (1) (a) ~~Except as provided in subsection (3), it is~~
25 unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture,
26 fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used
27 in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to
28 furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture.

Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises."

Section 4. Section 16-3-242, MCA, is amended to read:

"16-3-242. Financial interest in retailers prohibited. (1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler is considered to have a financial interest within the meaning of this section if:

1 ~~(1)(a)~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage
2 against the retailer or the retailer's premises;
3 ~~(2)(b)~~ the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future
4 purchases or the sale of merchandise by one from or to the other; or
5 ~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.
6 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
7 not subject to the limitations of this section for the licensed brewery's retail-licensed premises"
8

9 **Section 5.** Section 16-3-244, MCA, is amended to read:

10 **"16-3-244. Beer advertising limitations.** ~~It~~(1) Except as provided in subsection (2), it is lawful to
11 advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in
12 16-3-241 of this code and subject to the following restrictions on retailers. A retail licensee may not display or
13 permit to be displayed on the exterior portion or surface of the retailer's place of business or on the exterior
14 portion or surface of any building of which the place of business is a part or on any premises adjacent to the
15 place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or
16 advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the
17 manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a
18 marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days
19 per display period.

20 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
21 not subject to the restrictions in subsection (1) at ANY OF the ~~colocated~~ BREWERY'S LICENSED premises for
22 products manufactured by the licensed brewery."
23

24 **Section 6.** Section 16-3-311, MCA, is amended to read:

25 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
26 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed
27 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,
28 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as

provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access.

(b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

(2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the proposed alteration for the licensed premises to the department within 7 days of beginning the alteration. Department approval may not be unreasonably withheld. If the completed alteration differs from the approved alteration due to modifications required for approval by other state or local government entities, such as compliance with fire or building codes, the department must be notified, but preapproval is not required for these modifications. An alteration for the purposes of this section is any structural change in a premises that does not increase the square footage of the existing approved premises. An alteration that increases the square footage of the existing approved premises must be approved by the department prior to beginning the alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an alteration under this section.

(3) The interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control, and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators.

(4) The premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and

1 impedes foot traffic.

2 (5) Premises suitability does not include a minimum number of seats.

3 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
4 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
5 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
6 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
7 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
8 \$100.

9 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
10 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
11 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
12 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
13 underage service. The application fee is \$100.

14 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the
15 licensees are able to maintain control of their respective premises through adequate physical separation.

16 (9) (a) For the purposes of this section, "adequate physical separation" means:

17 (i) the premises of the retailer and the premises of the brewery or winery are secured after
18 business hours from each other and from any other business, including but not limited to prohibiting a customer
19 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of
20 operation as specified in 16-3-213(2)(b); and

21 (ii) the separation may include doors, gates, or windows that may be left open during business
22 hours.

23 (b) The term does not require permanent floor-to-ceiling walls.

24 (10) For colocated premises authorized in 16-4-401(10), there are no physical separation
25 requirements applied by this code but the licensee shall follow any federal requirements.

26

27 **Section 7.** Section 16-3-411, MCA, is amended to read:

28 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- 1 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
- 2 (b) sell wine it produces at wholesale to wine distributors;
- 3 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off
- 4 the premises;
- 5 (d) provide, without charge, wine it produces for consumption at the winery;
- 6 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine
- 7 it produces;
- 8 (f) obtain a special event permit under 16-4-301;
- 9 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
- 10 under applicable regulations of the United States department of the treasury;
- 11 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy
- 12 of the license;
- 13 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part
- 14 11, directly to an individual in Montana who is at least 21 years of age; or
- 15 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between
- 16 8 a.m. and 2 a.m.
- 17 (2) (a) ~~A-Except as provided in 16-4-401(10)(d), a~~ winery licensed pursuant to 16-4-107 may sell
- 18 and deliver wine produced by the winery directly to licensed retailers if the winery:
- 19 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine
- 20 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;
- 21 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the
- 22 retailer; or
- 23 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:
- 24 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's
- 25 winery or bonded warehouse;
- 26 (B) individual shipments delivered by common carrier are limited to three cases a day for each
- 27 licensed retailer; and
- 28 (C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

(b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and retailers, the shipment must be:

(i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";

(ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good standing; and

(iii) signed for by the wine distributor or retailer or its employee or agent.

(c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees or retailers, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code."

Section 8. Section 16-4-311, MCA, is amended to read:

"16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the

1 department.

2 (3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product
3 directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees
4 to deliver the product. The amount of product delivered may not be less than a case. The department shall
5 create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency
6 liquor stores must be invoiced by the department for product received from a distillery.

7 (b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each
8 delivery, subject to inspection by the department.

9 (c) The department shall pay the distillery for any product delivered to an agency liquor store:

10 (i) the current freight rate; and

11 (ii) the distiller's current quoted price per case.

12 (d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-
13 401(10), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed
14 by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the
15 colocated premises does count toward production levels for tax purposes."

16

17 **Section 9.** Section 16-4-401, MCA, is amended to read:

18 **"16-4-401. License as privilege -- criteria for decision on application -- colocated licenses.** (1) A
19 license under this code is a privilege that the state may grant to an applicant and is not a right to which any
20 applicant is entitled.

21 (2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8),
22 in the case of a license that permits on-premises consumption, the department shall find in every case in which
23 it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

24 (a) if the applicant is an individual:

25 (i) and the application is approved, the applicant will not possess an ownership interest in more
26 than three establishments licensed under this chapter for all-beverages sales. However, resort retail all-
27 beverages licenses issued under 16-4-213 do not count toward this limit.

28 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in

1 16-1-106;

2 (iii) except as provided in subsection (10), the applicant or any member of the applicant's
3 immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of
4 alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more
5 manufacturer licenses;

6 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
7 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
8 with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv)
9 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
10 protestor when renewing the license;

11 (v) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
12 felony, the applicant's rights have been restored; and

13 (vi) the applicant is not under 19 years of age;

14 (b) if the applicant is a publicly traded corporation:

15 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
16 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
17 applicant shall designate two or more officers or board members, each of whom must meet the requirements
18 for an individual applicant listed in subsection (2)(a).

19 (ii) each individual who has control over the operation of the license meets the requirements for an
20 individual applicant listed in subsection (2)(a);

21 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
22 individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a
23 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
24 subsection (8) apply.

25 (iv) the corporation is authorized to do business in Montana;

26 (c) if the applicant is a privately held corporation:

27 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
28 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the

applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(3) In the case of a license that permits only off-premises consumption and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license; and

(vi) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all

1 limited partners must meet the requirements of subsection (3)(a).

2 (f) if the applicant is a limited liability company, all managing members and those members whose
3 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If
4 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
5 subsection (3)(a).

6 (4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or
7 wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the
8 issuance of a new license or for the approval of the transfer of a license that:

9 (a) if the applicant is an individual:

10 (i) except as provided in subsection (10), the applicant has no ownership interest in any
11 establishment licensed under this chapter for retail alcoholic beverages sales;

12 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
13 16-1-106;

14 (iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
15 felony, the applicant's rights have been restored;

16 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
17 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
18 with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)
19 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
20 protestor when renewing the license;

21 (v) the applicant is not under 19 years of age; and

22 (vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
23 controlled by a manufacturer of an alcoholic beverage;

24 (b) if the applicant is a publicly traded corporation:

25 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
26 listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
27 designate two or more officers or board members, each of whom must meet the requirements for an individual
28 applicant listed in subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (4)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (4)(a).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302.

(7) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held.

(9) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

(b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

(c) It is the intent of this subsection (9) to facilitate the efficient administration of an entity licensed under this code.

(10) (a) A PERSON WITH AN OWNERSHIP INTEREST IN A licensed brewery or LICENSED winery may hold complete ownership of up to A COMBINED TOTAL OF three retail licenses issued pursuant to ~~16-4-104~~ 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to ~~16-4-104~~ 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

(b) A PERSON WITH AN OWNERSHIP INTEREST IN A licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person ~~who holds a license~~ WITH AN OWNERSHIP INTEREST IN A RETAIL LICENSE issued pursuant to ~~16-4-104~~ 16-4-105 may not also hold HAVE AN OWNERSHIP INTEREST IN a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (10), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the ~~colocated~~ retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to ~~16-4-104~~ 16-4-105 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licensees may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing ~~licenses~~ LICENSE and THE retail ~~licenses~~ LICENSE without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a ~~person~~ LICENSEE and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located."

NEW SECTION. Section 10. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2023.

1

- END -

HOUSE BILL NO. 305

INTRODUCED BY E. BUTTREY, K. ZOLNIKOV, L. JONES, M. HOPKINS, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-105, 16-4-201, 16-4-311, ~~AND 16-4-401~~, AND 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(10), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

(i) the production of all affiliated manufacturers; and

(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or

given to each individual customer during a business day for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises sample room consumption, including all affiliated manufacturers.

(3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

(a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity;

(b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or

(c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.

(4) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10), beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this section. Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 2. Section 16-3-214, MCA, is amended to read:

"16-3-214. Beer sales by brewers -- sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to:

(a) sell and deliver beer from its storage depot or brewery to:

(i) a wholesaler;

(ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:

(A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a

1 day to each licensed retailer; and

2 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels
3 a year; or

4 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or
5 growlers;

6 (b) provide its own products for consumption on its licensed premises without charge or, if it is a
7 small brewery, provide its own products at a sample room as provided in 16-3-213; or

8 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

9 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or
10 to licensed retailers.

11 (3) A brewery may import or purchase, upon terms and conditions the department may require,
12 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing
13 purposes.

14 (4) An additional license fee may not be imposed on a brewery providing its own products on its
15 licensed premises for consumption on the premises.

16 (5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a
17 wholesaler in this state under the provisions of 16-3-230.

18 (6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
19 beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-
20 distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises
21 does count toward production levels for tax purposes."

22

23 **Section 3.** Section 16-3-241, MCA, is amended to read:

24 **"16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer**
25 **importers, and wholesalers unlawful -- exceptions.** (1) (a) ~~Except as provided in subsection (3), it is~~
26 unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture,
27 fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used
28 in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to

furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture.

Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises."

Section 4. Section 16-3-242, MCA, is amended to read:

"16-3-242. Financial interest in retailers prohibited. (1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer

1 importer, or wholesaler is considered to have a financial interest within the meaning of this section if:

2 ~~(1)(a)~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage
3 against the retailer or the retailer's premises;

4 ~~(2)(b)~~ the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future
5 purchases or the sale of merchandise by one from or to the other; or

6 ~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.

7 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
8 not subject to the limitations of this section for the licensed brewery's retail-licensed premises"

9

10 **Section 5.** Section 16-3-244, MCA, is amended to read:

11 **"16-3-244. Beer advertising limitations.** ~~It~~(1) Except as provided in subsection (2), it is lawful to
12 advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in
13 16-3-241 of this code and subject to the following restrictions on retailers. A retail licensee may not display or
14 permit to be displayed on the exterior portion or surface of the retailer's place of business or on the exterior
15 portion or surface of any building of which the place of business is a part or on any premises adjacent to the
16 place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or
17 advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the
18 manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a
19 marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days
20 per display period.

21 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
22 not subject to the restrictions in subsection (1) at ANY OF the ~~colocated~~ BREWERY'S LICENSED premises for
23 products manufactured by the licensed brewery."

24

25 **Section 6.** Section 16-3-311, MCA, is amended to read:

26 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
27 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed
28 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,

1 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as
2 provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building
3 by permanent walls but may have inside access to the rest of the building at all times even if the businesses or
4 uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic
5 beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to
6 demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after
7 hours, either by the presence of a lockable door or other security features such as rolling gates, locking
8 cabinets, tap locks, or key card access.

9 (b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of
10 a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

11 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
12 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
13 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.
14 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
15 alteration due to modifications required for approval by other state or local government entities, such as
16 compliance with fire or building codes, the department must be notified, but preapproval is not required for
17 these modifications. An alteration for the purposes of this section is any structural change in a premises that
18 does not increase the square footage of the existing approved premises. An alteration that increases the
19 square footage of the existing approved premises must be approved by the department prior to beginning the
20 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
21 alteration under this section.

22 (3) The interior portion of the licensed premises must be a continuous area that is under the
23 control of the licensee and not interrupted by any area in which the licensee does not have adequate control,
24 and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants
25 in order to allow patrons to access other tenant businesses or private dwellings in the same building, including
26 but not limited to entryways, hallways, stairwells, and elevators.

27 (4) The premises may include one or more exterior patios or decks as long as sufficient physical
28 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional

perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic.

(5) Premises suitability does not include a minimum number of seats.

(6) A licensed retailer may apply to the department to have a noncontiguous storage area that is under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is \$100.

(7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent underage service. The application fee is \$100.

(8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the licensees are able to maintain control of their respective premises through adequate physical separation.

(9) (a) For the purposes of this section, "adequate physical separation" means:

(i) the premises of the retailer and the premises of the brewery or winery are secured after business hours from each other and from any other business, including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and

(ii) the separation may include doors, gates, or windows that may be left open during business hours.

(b) The term does not require permanent floor-to-ceiling walls.

(10) For colocated premises authorized in 16-4-401(10), there are no physical separation requirements applied by this code but the licensee shall follow any federal requirements."

Section 7. Section 16-3-411, MCA, is amended to read:

1 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

2 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

3 (b) sell wine it produces at wholesale to wine distributors;

4 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off

5 the premises;

6 (d) provide, without charge, wine it produces for consumption at the winery;

7 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine

8 it produces;

9 (f) obtain a special event permit under 16-4-301;

10 (g) perform those operations and cellar treatments that are permitted for bonded winery premises

11 under applicable regulations of the United States department of the treasury;

12 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy

13 of the license;

14 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part

15 11, directly to an individual in Montana who is at least 21 years of age; or

16 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between

17 8 a.m. and 2 a.m.

18 (2) (a) ~~Except as provided in 16-4-401(10)(d),~~ a winery licensed pursuant to 16-4-107 may sell

19 and deliver wine produced by the winery directly to licensed retailers if the winery:

20 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine

21 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;

22 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the

23 retailer; or

24 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

25 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's

26 winery or bonded warehouse;

27 (B) individual shipments delivered by common carrier are limited to three cases a day for each

28 licensed retailer; and

(C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

(b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and retailers, the shipment must be:

(i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";

(ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good standing; and

(iii) signed for by the wine distributor or retailer or its employee or agent.

(c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees or retailers, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code."

SECTION 8. SECTION 16-4-105, MCA, IS AMENDED TO READ:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- limitation on use of license -- exceptions -- competitive bidding -- rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than

2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for each additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(i) the county boundary within which the incorporated city or incorporated town is located; or

(ii) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same location requirement.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (8) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted

1 from applications in process as of November 24, 2017, in either of two quota areas that were established as
2 provided in subsection (1)(c) may be transferred between the two quota areas if they were part of the combined
3 quota area prior to November 24, 2017.

4 (b) If any new retail beer licenses are allowed by separating a combined quota area that existed as
5 of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more
6 than one new beer license a year until the quota has been reached.

7 (c) If any new retail beer licenses are allowed by license transfers as provided in subsection (2)(a),
8 the department may publish the availability of more than one new license a year until the quota has been
9 reached.

10 (3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated
11 city or town because of annexation after April 15, 2005, may not be transferred to another location within the
12 city quota area any sooner than 5 years from the date of the annexation.

13 (4) When the department determines that a quota area is eligible for a new retail beer license
14 under subsection (1) or (2)(b), the department shall use a competitive bidding process as provided in 16-4-430
15 to determine the party afforded the opportunity to apply for the new license.

16 (5) Except as provided in subsection (2)(b), when more than one new beer license becomes
17 available at the same time in the same quota area, the department shall conduct a separate competitive bidding
18 process at separate times for each available license.

19 (6) (a) A person holding a license to sell beer for consumption on the premises at retail may apply
20 to the department for an amendment to the license permitting the holder to sell wine as well as beer. The
21 department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine
22 for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for
23 beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for
24 consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic
25 loss of the wine amendment license.

26 (b) A person licensed under this subsection (6) may apply to the department and pay a fee for an
27 endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original
28 packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The

purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(c) A person licensed under this subsection (6) may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection (6)(c) authorizes a licensee to consume, sell, serve, or give away liquor.

(7) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a \$25,000 new license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(10) The department may adopt rules to implement this section."

SECTION 9. SECTION 16-4-201, MCA, IS AMENDED TO READ:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of

1 the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500
2 inhabitants.

3 (2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the
4 number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of
5 retail licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the
6 city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must
7 be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest
8 corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be
9 located farther than:

10 (a) the county boundary within which the incorporated city or incorporated town is located; or

11 (b) the line that separates the incorporated city's or incorporated town's boundary from another
12 incorporated city or incorporated town as specified in this section.

13 (3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile
14 boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a
15 straight line equidistant between each city or town.

16 (b) If there are more than two overlapping quota areas, the quota area for each city or town
17 terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses
18 existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a
19 result of the straight line equidistant between each city or town, except for the following:

20 (i) In the Helena and East Helena previously combined quota area, the straight line will be drawn
21 connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area
22 boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a
23 Helena license or with a physical address of East Helena will become an East Helena license, regardless of
24 where it falls in the new quota areas.

25 (ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn
26 along Mill Creek road to the quota area boundaries.

27 (iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west
28 on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area

boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(5) (a) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached. The department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(b) If any new all-beverages licenses are allowed by license transfers as provided in subsection (4), the department may publish the availability of more than one new license a year until the quota has been reached.

(6) Except as provided in subsection (5)(a), when more than one new all-beverages license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985;

(b) a continuing care retirement community as provided in 16-4-315; or

~~(b)(c)~~ any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5

years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veteran's organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same-location requirement; or,

~~(c) a continuing care retirement community as provided in 16-4-315.~~

(9) The number of retail all-beverages licenses that the department may issue for use at premises situated more than 5 miles outside of any incorporated city or incorporated town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(10) An all-beverages license issued under subsection (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of annexation.

(11) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(12) A person licensed under this section may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(13) The department may adopt rules to implement this section."

Section 10. Section 16-4-311, MCA, is amended to read:

"16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may

provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the department.

(3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees to deliver the product. The amount of product delivered may not be less than a case. The department shall create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency liquor stores must be invoiced by the department for product received from a distillery.

(b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each delivery, subject to inspection by the department.

(c) The department shall pay the distillery for any product delivered to an agency liquor store:

(i) the current freight rate; and

(ii) the distiller's current quoted price per case.

(d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-401(10), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 11. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application -- colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) except as provided in subsection (10), the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;

(v) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and

(vi) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of

1 subsection (8) apply.

2 (iv) the corporation is authorized to do business in Montana;

3 (c) if the applicant is a privately held corporation:

4 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
5 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
6 applicant shall designate two or more officers or board members, each of whom must meet the requirements
7 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
8 the requirements of subsection (2)(a).

9 (ii) each individual who has control over the operation of the license meets the requirements for an
10 individual applicant listed in subsection (2)(a);

11 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
12 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
13 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
14 subsection (8) apply.

15 (iv) the corporation is authorized to do business in Montana;

16 (d) if the applicant is a general partnership, each partner must meet the requirements of
17 subsection (2)(a);

18 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
19 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
20 requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
21 limited partners must meet the requirements of subsection (2)(a).

22 (f) if the applicant is a limited liability company, all managing members and those members whose
23 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If
24 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
25 subsection (2)(a).

26 (3) In the case of a license that permits only off-premises consumption and subject to subsection
27 (8), the department shall find in every case in which it makes an order for the issuance of a new license or for
28 the approval of the transfer of a license that:

- 1 (a) if the applicant is an individual:
- 2 (i) and the application is approved, the applicant will not possess an ownership interest in more
- 3 than three establishments licensed under this chapter for all-beverages sales;
- 4 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
- 5 16-1-106;
- 6 (iii) the applicant or any member of the applicant's immediate family is without financing from or
- 7 any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
- 8 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
- 9 felony, the applicant's rights have been restored;
- 10 (v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
- 11 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
- 12 with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v)
- 13 authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
- 14 protestor when renewing the license; and
- 15 (vi) the applicant is not under 19 years of age;
- 16 (b) if the applicant is a publicly traded corporation:
- 17 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
- 18 listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
- 19 designate two or more officers or board members, each of whom must meet the requirements for an individual
- 20 applicant listed in subsection (3)(a).
- 21 (ii) the corporation is authorized to do business in Montana;
- 22 (c) if the applicant is a privately held corporation:
- 23 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
- 24 applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the
- 25 applicant shall designate two or more officers or board members, each of whom must meet the requirements
- 26 for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet
- 27 the requirements of subsection (3)(a).
- 28 (ii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (3)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (3)(a).

(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) except as provided in subsection (10), the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (4)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (4)(a).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)

1 apply separately to each class of stock.

2 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
3 to 16-4-302.

4 (7) An applicant's source of funding must be from a suitable source. A lender or other source of
5 money or credit may be found unsuitable if the source:

6 (a) is a person whose prior financial or other activities or criminal record:

7 (i) poses a threat to the public interest of the state;

8 (ii) poses a threat to the effective regulation and control of alcoholic beverages; or

9 (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
10 business; or

11 (b) has been convicted of a felony offense within 5 years of the date of application or is on
12 probation or parole or under deferred prosecution for committing a felony offense.

13 (8) (a) An individual applying for an all-beverages license or having any ownership interest in an
14 entity applying for an all-beverages license may not, if the application were to be approved, own an interest in
15 more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

16 (b) If two or more individuals through business or family relationship share in the profits or liabilities
17 of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not
18 exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-
19 beverages licenses will be held.

20 (9) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing
21 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
22 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
23 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
24 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
25 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

26 (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and
27 noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

28 (c) It is the intent of this subsection (9) to facilitate the efficient administration of an entity licensed

1 under this code.

2 (10) (a) A PERSON WITH AN OWNERSHIP INTEREST IN A licensed brewery or LICENSED winery may hold
3 complete ownership of up to A COMBINED TOTAL OF three retail licenses issued pursuant to ~~16-4-104~~ 16-4-105 or
4 16-4-201. The owner of a retail license issued pursuant to ~~16-4-104~~ 16-4-105 or 16-4-201 may hold complete
5 ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

6 (b) A PERSON WITH AN OWNERSHIP INTEREST IN A licensed distillery may hold complete ownership of
7 up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-
8 201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

9 (c) A person ~~who holds a license~~ WITH AN OWNERSHIP INTEREST IN A RETAIL LICENSE issued pursuant
10 to ~~16-4-104~~ 16-4-105 may not also hold HAVE AN OWNERSHIP INTEREST IN a distillery license.

11 (d) To hold both a manufacturing license and a retail license pursuant to this subsection (10), a
12 licensee:

13 (i) must maintain both the manufacturing license and the retail license on the same premises for
14 the first of these licenses, known as a colocated premises;

15 (ii) must have 100% of the same ownership between the manufacturing license and the retail
16 license; and

17 (iii) must provide and serve through the ~~colocated~~ retail license alcohol produced by other
18 manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or
19 operation of the business in which the license was issued pursuant to ~~16-4-104~~ 16-4-105 and 16-4-201, or the
20 licensed brewery, winery, or distillery.

21 (e) Colocated licensees may transfer beer manufactured, liquor distilled, or wine produced by the
22 licensee between the colocated manufacturing ~~licenses~~ LICENSE and THE retail ~~licenses~~ LICENSE without it being
23 considered distributed or delivered as provided in this code.

24 (f) For the purposes of this code, the following definitions apply:

25 (i) "Colocated license" means a manufacturing license and a retail license owned completely by a
26 ~~person~~ LICENSEE and that are operated at one premises.

27 (ii) "Colocated premises" means a premises where a manufacturing license and a retail license are
28 both located."

1

2

SECTION 12. SECTION 16-4-420, MCA, IS AMENDED TO READ:

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"16-4-420. Restaurant beer and wine license -- competitive bidding -- rulemaking. (1) The

4

department shall issue a restaurant beer and wine license to an applicant whenever the department determines

5

that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications

6

and conditions:

7

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises

8

consumption license;

9

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license

10

will be used or satisfies the department that:

11

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and

12

intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of

13

operation is expected to be the result of the sale of food;

14

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the

15

restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be

16

stated on the food bill; and

17

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the

18

department by rule;

19

(c) the applicant understands and acknowledges in writing on the application that this license

20

prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling

21

machines and that if any gaming or gambling activity or machine exists at the location where the restaurant

22

beer and wine license will be used, the activity must be discontinued or the machines must be removed before

23

the restaurant beer and wine license takes effect; and

24

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the

25

current seating capacity if the restaurant is operating.

26

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other

27

alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

28

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply

1 for a license under this section for a period of 1 year from the date that license is transferred to a new
2 purchaser.

3 (ii) A person, including an individual, with an ownership interest in an existing on-premises retail
4 license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for
5 under this section for a period of 1 year from the date that the existing on-premises retail license is transferred
6 to a new purchaser.

7 (3) A completed application for a license under this section and the appropriate application fee, as
8 provided in subsection (11), must be submitted to the department. The department shall investigate the items
9 relating to the application as described in subsections (3)(a) and (3)(b). Based on the results of the investigation
10 and the exercise of its sound discretion, the department shall determine whether:

11 (a) the applicant is qualified to receive a license; and

12 (b) (i) the applicant's premises are suitable for the carrying on of the business;

13 (ii) the applicant is qualified to receive a license prior to a determination that the applicant's
14 premises are suitable for carrying on with the business in accordance with 16-4-417; or

15 (iii) if the applicant has already been issued a license, the proposed premises are suitable for the
16 carrying on of the business and the seating capacity stated on the application is correct.

17 (4) An application for a beer and wine license submitted under this section is subject to the
18 provisions of 16-4-203, 16-4-207, and 16-4-405.

19 (5) If a premises proposed for licensing under this section is a new or remodeled structure, then
20 the department may issue a license prior to completion of the premises based on reasonable evidence,
21 including a statement from the applicant's architect or contractor confirming that the seating capacity stated on
22 the application is correct, that the premises will be suitable for the carrying on of business as a bona fide
23 restaurant, as defined in subsection (6). If a license is issued without a premises, the license will immediately
24 be placed on nonuse status until the premises are approved subject to 16-4-417.

25 (6) (a) For purposes of this section, "restaurant" means a public eating place:

26 (i) where individually priced meals are prepared and served for on-premises consumption;

27 (ii) where at least 65% of the restaurant's annual gross income from the operation must be from
28 the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant

shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license not issued through a competitive bidding process as provided in 16-4-430 may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner, unless that transfer is due to the death of an owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in

that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(A) the county boundary within which the incorporated city or incorporated town is located; or

(B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town

terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(9) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (8)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new restaurant beer and wine licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in 16-4-105 and subsection (9)(a) of this section, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(c) If any new restaurant beer and wine licenses are allowed by license transfers as provided in subsection (9)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(10) Except as provided in subsection (9)(b), when more than one new restaurant beer and wine license becomes available at the same time in the same quota area, the department shall conduct a separate

1 competitive bidding process at separate times for each available license.

2 (11) When a restaurant beer and wine license becomes available by the initial issuance of licenses
3 under this section or as the result of an increase in the population in a quota area, the nonrenewal of a
4 restaurant beer and wine license, or the lapse or revocation of a license by the department, then the
5 department shall advertise the availability of the license in the quota area for which it is available.

6 (12) When the department determines that a quota area is eligible for a new restaurant beer and
7 wine license under subsection (9) or (11), the department shall use a competitive bidding process as provided
8 in 16-4-430 to determine the party afforded the opportunity to apply for a new license.

9 (13) (a) Except as provided in subsection (13)(b), beer and wine may be sold for off-premises
10 consumption, including curbside pickup, during the hours of 11 a.m. and 11 p.m. in original packaging,
11 prepared servings, or growlers. If offering off-premises sales, food must also be ordered, the beer or wine must
12 be stated on the food bill, and the sales must count toward the 65% limit as provided in this section.

13 (b) A restaurant beer and wine licensee may apply to the department and pay a fee for an
14 endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original
15 packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The
16 purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

17 (14) An application for a restaurant beer and wine license must be accompanied by a fee equal to
18 20% of the initial licensing fee. If the department does not decide either to grant or to deny the license within 4
19 months of receipt of a complete application, the department shall pay interest on the application fee at the rate
20 of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period
21 that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If
22 the department denies an application, the application fee, plus any interest, less a processing fee established
23 by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of
24 the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

25 (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or fewer;

26 (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

27 (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

28 (15) The annual fee for a restaurant beer and wine license is \$400.

(16) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(17) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(18) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(19) A person licensed under this section may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection authorizes a licensee to consume, sell, serve, or give away liquor.

~~(19)~~(20) The department may adopt rules to implement this section."

COORDINATION SECTION. SECTION 13. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 242, SENATE BILL NO. 75, AND [THIS ACT] ARE PASSED AND APPROVED AND ALL CONTAIN A SECTION THAT AMENDS 16-4-401, THEN THE SECTIONS AMENDING 16-4-401 ARE VOID AND 16-4-401 MUST BE AMENDED AS FOLLOWS:

"16-4-401. License as privilege -- criteria for decision on application -- restrictions -- colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection ~~(6)~~ (5) of this section and subject to subsection (8), ~~in the case of a license that permits on-premises consumption,~~ the department shall find in every case in which it makes an order for the issuance of a new license, ~~or for the approval of the transfer of a license,~~ or the renewal of a license that:

(a) if the applicant is an individual:

~~(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all beverages sales. However, resort retail all beverages licenses issued under 16-4-213 do not count toward this limit.~~

~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106 ;~~

~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses;~~

~~(iv)(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;~~

~~(v)(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and~~

~~(vi)(iii) the applicant is not under 19 years of age;~~

(b) if the applicant is a publicly traded corporation:

(i) ~~each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a);~~ ;

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); and

~~(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.~~

~~(iv)(iii) the corporation is authorized to do business in Montana;~~

(c) if the applicant is a privately held corporation, all of the following must apply:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the

applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection ~~(8)~~ (7) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company;

(i) all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(ii) the limited liability company is authorized to do business in Montana;

(g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

(h) if the applicant is a nonprofit organization:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the nonprofit organization is authorized to do business in Montana;

(i) if the applicant is a cooperative association:

(i) the applicant shall designate two or more officers or board members, each of whom must meet

1 the requirements for an individual applicant listed in subsection (2)(a); and

2 (ii) the cooperative association is authorized to do business in Montana.

3 ~~(3) In the case of a license that permits only off-premises consumption and subject to subsection (8),~~
4 ~~the department shall find in every case in which it makes an order for the issuance of a new license or for the~~
5 ~~approval of the transfer of a license that:~~

6 ~~(a) if the applicant is an individual:~~

7 ~~(i) and the application is approved, the applicant will not possess an ownership interest in more than~~
8 ~~three establishments licensed under this chapter for all beverages sales;~~

9 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
10 ~~106;~~

11 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any~~
12 ~~affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~

13 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,~~
14 ~~the applicant's rights have been restored;~~

15 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
16 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
17 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v)~~
18 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
19 ~~protestor when renewing the license; and~~

20 ~~(vi) the applicant is not under 19 years of age;~~

21 ~~(b) if the applicant is a publicly traded corporation:~~

22 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed~~
23 ~~in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall~~
24 ~~designate two or more officers or board members, each of whom must meet the requirements for an individual~~
25 ~~applicant listed in subsection (3)(a).~~

26 ~~(ii) the corporation is authorized to do business in Montana;~~

27 ~~(c) if the applicant is a privately held corporation:~~

28 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual~~

1 applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the
2 applicant shall designate two or more officers or board members, each of whom must meet the requirements
3 for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet
4 the requirements of subsection (3)(a).

5 (ii) ~~the corporation is authorized to do business in Montana;~~

6 (d) ~~if the applicant is a general partnership, each partner must meet the requirements of subsection~~
7 ~~(3)(a);~~

8 (e) ~~if the applicant is a limited partnership or a limited liability partnership, each general partner and all~~
9 ~~limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the~~
10 ~~requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all~~
11 ~~limited partners must meet the requirements of subsection (3)(a).~~

12 (f) ~~if the applicant is a limited liability company, all managing members and those members whose~~
13 ~~ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If~~
14 ~~no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of~~
15 ~~subsection (3)(a).~~

16 (4) ~~Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or~~
17 ~~wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the~~
18 ~~issuance of a new license or for the approval of the transfer of a license that:~~

19 (a) ~~if the applicant is an individual:~~

20 (i) ~~the applicant has no ownership interest in any establishment licensed under this chapter for retail~~
21 ~~alcoholic beverages sales;~~

22 (ii) ~~the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
23 ~~106 ;~~

24 (iii) ~~the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,~~
25 ~~the applicant's rights have been restored;~~

26 (iv) ~~the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
27 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
28 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)~~

~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax
protestor when renewing the license;~~

~~(v) the applicant is not under 19 years of age; and~~

~~(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
controlled by a manufacturer of an alcoholic beverage;~~

~~(b) if the applicant is a publicly traded corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed
in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
designate two or more officers or board members, each of whom must meet the requirements for an individual
applicant listed in subsection (4)(a).~~

~~(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
controlled by a manufacturer of an alcoholic beverage; and~~

~~(iii) the corporation is authorized to do business in Montana;~~

~~(c) if the applicant is a privately held corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the
applicant must designate two or more officers or board members, each of whom must meet the requirements
for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet
the requirements of subsection (4)(a).~~

~~(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
controlled by a manufacturer of an alcoholic beverage; and~~

~~(iii) the corporation is authorized to do business in Montana;~~

~~(d) if the applicant is a general partnership, each partner must meet the requirements of subsection
(4)(a);~~

~~(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
limited partners must meet the requirements of subsection (4)(a).~~

~~(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (4)(a).~~

(3) The applicant and any individual of the applicant who must meet the requirements of (2)(a) must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license.

~~(5)(4)~~ In the case of a corporate applicant, the requirements of subsections (2)(b), ~~(3)(b), and (4)(b)~~ or (2)(c) apply separately to each class of stock.

~~(6)(5)~~ The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

~~(7)(6)~~ An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

~~(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.~~

~~(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held unless the person's rights have been restored.~~

1 ~~(9)(7)~~ (a) Except as specifically provided in this code relating to financial interests in licenses, nothing
2 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
3 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
4 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
5 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
6 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

7 (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and
8 noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

9 (c) It is the intent of this subsection ~~(9)~~ (7) to facilitate the efficient administration of an entity
10 licensed under this code.

11 ~~(8)~~ (a) An individual applying for an all-beverages license or having any ownership interest in an
12 entity applying for an all-beverages license may not, if the application were to be approved, own an interest in
13 more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

14 ~~(b)~~ (b) If two or more individuals through a business or family relationship share in the profits or
15 liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or
16 liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in
17 which the all-beverages licenses will be held.

18 ~~(c)~~ (c) An applicant applying for an all-beverages license and any individual of the applicant who must
19 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an
20 ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter
21 for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count
22 toward this limit.

23 ~~(d)~~ (d) An applicant and any individual of the applicant who must meet the requirements of subsection
24 (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

25 ~~(e)~~ (e) Except as provided in subsection (9), an applicant for an on-premises consumption license or
26 any member of the applicant's immediate family must be without financing from and may not have any affiliation
27 to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may
28 possess an ownership interest in one or more manufacturer licenses. This prohibition also applies to any

1 individual of the applicant who must meet the requirements of subsection (2)(a).

2 (f) An applicant for an off-premises consumption license or any member of the applicant's
3 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,
4 bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who
5 must meet the requirements of subsection (2)(a).

6 (g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or
7 wholesaling license and any individual of the applicant who must meet the requirements of subsection (2)(a)
8 may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic
9 beverage sales.

10 (h) An applicant for a wholesale license and any individual of the applicant who must meet the
11 requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled
12 by a manufacturer of an alcoholic beverage.

13 (9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold
14 complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201.
15 The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery
16 or winery licenses. The first of these licenses must be a colocated license.

17 (b) A person with an ownership interest in a licensed distillery may hold complete ownership of up
18 to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201
19 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

20 (c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not
21 also have an ownership interest in a distillery license.

22 (d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a
23 licensee:

24 (i) must maintain both the manufacturing license and the retail license on the same premises for
25 the first of these licenses, known as a colocated premises;

26 (ii) must have 100% of the same ownership between the manufacturing license and the retail
27 license; and

28 (iii) must provide and serve through the retail license alcohol produced by other manufacturers that

1 are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business
2 in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or
3 distillery.

4 (e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the
5 licensee between the colocated manufacturing license and the retail license without it being considered
6 distributed or delivered as provided in this code.

7 (f) For the purposes of this code, the following definitions apply:

8 (i) "Colocated license" means a manufacturing license and a retail license owned completely by a
9 licensee and that are operated at one premises.

10 (ii) "Colocated premises" means a premises where a manufacturing license and a retail license are
11 both located."

12

13 NEW SECTION. Section 14. Saving clause. [This act] does not affect rights and duties that
14 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

15

16 NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2023.

17

- END -



AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-105, 16-4-201, 16-4-311, 16-4-401, AND 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(10), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

- (i) the production of all affiliated manufacturers; and
- (ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or

given to each individual customer during a business day for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises sample room consumption, including all affiliated manufacturers.

(3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

(a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity;

(b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or

(c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.

(4) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10), beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this section. Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 2. Section 16-3-214, MCA, is amended to read:

"16-3-214. Beer sales by brewers -- sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to:

(a) sell and deliver beer from its storage depot or brewery to:

(i) a wholesaler;

(ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:

(A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a

day to each licensed retailer; and

(B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year; or

(iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or growlers;

(b) provide its own products for consumption on its licensed premises without charge or, if it is a small brewery, provide its own products at a sample room as provided in 16-3-213; or

(c) do any one or more of the acts of sale and delivery of beer as provided in this code.

(2) A brewery may not use a common carrier for delivery of the brewery's product to the public or to licensed retailers.

(3) A brewery may import or purchase, upon terms and conditions the department may require, necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing purposes.

(4) An additional license fee may not be imposed on a brewery providing its own products on its licensed premises for consumption on the premises.

(5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230.

(6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10), beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 3. Section 16-3-241, MCA, is amended to read:

"16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer importers, and wholesalers unlawful -- exceptions. (1) (a) ~~Except as provided in subsection (3),~~ it is unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture, fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to

furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture. Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises."

Section 4. Section 16-3-242, MCA, is amended to read:

"16-3-242. Financial interest in retailers prohibited. (1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer

importer, or wholesaler is considered to have a financial interest within the meaning of this section if:

~~(1)(a)~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises;

~~(2)(b)~~ the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other; or

~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.

(2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of this section for the licensed brewery's retail-licensed premises"

Section 5. Section 16-3-244, MCA, is amended to read:

"16-3-244. Beer advertising limitations. ~~It~~ (1) Except as provided in subsection (2), it is lawful to advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in 16-3-241 of this code and subject to the following restrictions on retailers. A retail licensee may not display or permit to be displayed on the exterior portion or surface of the retailer's place of business or on the exterior portion or surface of any building of which the place of business is a part or on any premises adjacent to the place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days per display period.

(2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the restrictions in subsection (1) at any of the brewery's licensed premises for products manufactured by the licensed brewery."

Section 6. Section 16-3-311, MCA, is amended to read:

"16-3-311. Suitable premises for licensed retail establishments. (1) (a) A licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,

service to underage persons, and service to persons who are actually or apparently intoxicated. Except as provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access.

(b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

(2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the proposed alteration for the licensed premises to the department within 7 days of beginning the alteration. Department approval may not be unreasonably withheld. If the completed alteration differs from the approved alteration due to modifications required for approval by other state or local government entities, such as compliance with fire or building codes, the department must be notified, but preapproval is not required for these modifications. An alteration for the purposes of this section is any structural change in a premises that does not increase the square footage of the existing approved premises. An alteration that increases the square footage of the existing approved premises must be approved by the department prior to beginning the alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an alteration under this section.

(3) The interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control, and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators.

(4) The premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional

perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic.

(5) Premises suitability does not include a minimum number of seats.

(6) A licensed retailer may apply to the department to have a noncontiguous storage area that is under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is \$100.

(7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent underage service. The application fee is \$100.

(8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the licensees are able to maintain control of their respective premises through adequate physical separation.

(9) (a) For the purposes of this section, "adequate physical separation" means:

(i) the premises of the retailer and the premises of the brewery or winery are secured after business hours from each other and from any other business, including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and

(ii) the separation may include doors, gates, or windows that may be left open during business hours.

(b) The term does not require permanent floor-to-ceiling walls.

(10) For colocated premises authorized in 16-4-401(10), there are no physical separation requirements applied by this code but the licensee shall follow any federal requirements."

Section 7. Section 16-3-411, MCA, is amended to read:

"16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
 - (b) sell wine it produces at wholesale to wine distributors;
 - (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;
 - (d) provide, without charge, wine it produces for consumption at the winery;
 - (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;
 - (f) obtain a special event permit under 16-4-301;
 - (g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury;
 - (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license;
 - (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or
 - (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m.
- (2) (a) ~~A~~ Except as provided in 16-4-401(10)(d), a winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery directly to licensed retailers if the winery:
- (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;
 - (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer; or
 - (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:
 - (A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or bonded warehouse;
 - (B) individual shipments delivered by common carrier are limited to three cases a day for each licensed retailer; and

- (C) the shipments delivered by common carrier do not exceed 4,500 cases a year.
- (b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and retailers, the shipment must be:
 - (i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";
 - (ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good standing; and
 - (iii) signed for by the wine distributor or retailer or its employee or agent.
- (c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees or retailers, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code."

Section 8. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- limitation on use of license -- exceptions -- competitive bidding -- rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

- (a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:
 - (i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer license;
 - (ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than

2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for each additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(i) the county boundary within which the incorporated city or incorporated town is located; or
(ii) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same location requirement.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (8) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted

from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.

(c) If any new retail beer licenses are allowed by license transfers as provided in subsection (2)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of the annexation.

(4) When the department determines that a quota area is eligible for a new retail beer license under subsection (1) or (2)(b), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(5) Except as provided in subsection (2)(b), when more than one new beer license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(6) (a) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(b) A person licensed under this subsection (6) may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The

purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(c) A person licensed under this subsection (6) may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection (6)(c) authorizes a licensee to consume, sell, serve, or give away liquor.

(7) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a \$25,000 new license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(10) The department may adopt rules to implement this section."

Section 9. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of

the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

- (a) the county boundary within which the incorporated city or incorporated town is located; or
- (b) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(b) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(i) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area

boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(5) (a) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached. The department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(b) If any new all-beverages licenses are allowed by license transfers as provided in subsection (4), the department may publish the availability of more than one new license a year until the quota has been reached.

(6) Except as provided in subsection (5)(a), when more than one new all-beverages license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985;

(b) a continuing care retirement community as provided in 16-4-315; or

~~(b)(c)~~ any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5

years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veteran's organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same-location requirement; or,

~~(c) a continuing care retirement community as provided in 16-4-315.~~

(9) The number of retail all-beverages licenses that the department may issue for use at premises situated more than 5 miles outside of any incorporated city or incorporated town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(10) An all-beverages license issued under subsection (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of annexation.

(11) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.

(12) A person licensed under this section may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(13) The department may adopt rules to implement this section."

Section 10. Section 16-4-311, MCA, is amended to read:

"16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may

provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the department.

(3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees to deliver the product. The amount of product delivered may not be less than a case. The department shall create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency liquor stores must be invoiced by the department for product received from a distillery.

(b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each delivery, subject to inspection by the department.

(c) The department shall pay the distillery for any product delivered to an agency liquor store:

- (i) the current freight rate; and
- (ii) the distiller's current quoted price per case.

(d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-401(10), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the colocated premises does count toward production levels for tax purposes."

Section 11. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application -- colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

- (a) if the applicant is an individual:
 - (i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.
 - (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;
 - (iii) except as provided in subsection (10), the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses;
 - (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;
 - (v) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and
 - (vi) the applicant is not under 19 years of age;
- (b) if the applicant is a publicly traded corporation:
 - (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a).
 - (ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);
 - (iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of

subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(3) In the case of a license that permits only off-premises consumption and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

- (a) if the applicant is an individual:
 - (i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales;
 - (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;
 - (iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
 - (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;
 - (v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license; and
 - (vi) the applicant is not under 19 years of age;
- (b) if the applicant is a publicly traded corporation:
 - (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a).
 - (ii) the corporation is authorized to do business in Montana;
- (c) if the applicant is a privately held corporation:
 - (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (3)(a).
 - (ii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (3)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (3)(a).

(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) except as provided in subsection (10), the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (4)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (4)(a).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)

apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302.

(7) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

- (i) poses a threat to the public interest of the state;
- (ii) poses a threat to the effective regulation and control of alcoholic beverages; or
- (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held.

(9) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

(b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

(c) It is the intent of this subsection (9) to facilitate the efficient administration of an entity licensed

under this code.

(10) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

(b) A person with an ownership interest in a licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not also have an ownership interest in a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (10), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licensees may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing license and the retail license without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a licensee and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located."

Section 12. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license -- competitive bidding -- rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply

for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) and (3)(b). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license; and
- (b) (i) the applicant's premises are suitable for the carrying on of the business;
- (ii) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or
- (iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6). If a license is issued without a premises, the license will immediately be placed on nonuse status until the premises are approved subject to 16-4-417.

- (6) (a) For purposes of this section, "restaurant" means a public eating place:
- (i) where individually priced meals are prepared and served for on-premises consumption;
 - (ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant

shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license not issued through a competitive bidding process as provided in 16-4-430 may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner, unless that transfer is due to the death of an owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in

that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(A) the county boundary within which the incorporated city or incorporated town is located; or
(B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town

terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(9) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (8)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new restaurant beer and wine licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in 16-4-105 and subsection (9)(a) of this section, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(c) If any new restaurant beer and wine licenses are allowed by license transfers as provided in subsection (9)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(10) Except as provided in subsection (9)(b), when more than one new restaurant beer and wine license becomes available at the same time in the same quota area, the department shall conduct a separate

competitive bidding process at separate times for each available license.

(11) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available.

(12) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (11), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for a new license.

(13) (a) Except as provided in subsection (13)(b), beer and wine may be sold for off-premises consumption, including curbside pickup, during the hours of 11 a.m. and 11 p.m. in original packaging, prepared servings, or growlers. If offering off-premises sales, food must also be ordered, the beer or wine must be stated on the food bill, and the sales must count toward the 65% limit as provided in this section.

(b) A restaurant beer and wine licensee may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

(14) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not decide either to grant or to deny the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or fewer;
 - (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
 - (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.
- (15) The annual fee for a restaurant beer and wine license is \$400.

(16) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(17) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(18) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(19) A person licensed under this section may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection authorizes a licensee to consume, sell, serve, or give away liquor.

~~(19)~~(20) The department may adopt rules to implement this section."

Section 13. Coordination instruction. If House Bill No. 242, Senate Bill No. 75, and [this act] are passed and approved and all contain a section that amends 16-4-401, then the sections amending 16-4-401 are void and 16-4-401 must be amended as follows:

"16-4-401. License as privilege -- criteria for decision on application -- restrictions -- colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection ~~(6)~~ (5) of this section and subject to subsection (8), ~~in the case of a license that permits on-premises consumption,~~ the department shall find in every case in which it makes an order for the issuance of a new license, ~~or for the approval of the transfer of a license,~~ or the renewal of a license that:

(a) if the applicant is an individual:

~~(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all beverages sales. However, resort retail all beverages licenses issued under 16-4-213 do not count toward this limit.~~

~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;~~

~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses;~~

~~(iv)(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;~~

~~(v)(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and~~

~~(vi)(iii) the applicant is not under 19 years of age;~~

(b) if the applicant is a publicly traded corporation:

(i) ~~each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a);~~ :

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); and

~~(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.~~

~~(iv)(iii) the corporation is authorized to do business in Montana;~~

(c) if the applicant is a privately held corporation, all of the following must apply:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the

applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection ~~(8)~~ (7) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company;

(i) all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(ii) the limited liability company is authorized to do business in Montana;

(g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

(h) if the applicant is a nonprofit organization:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the nonprofit organization is authorized to do business in Montana;

(i) if the applicant is a cooperative association:

(i) the applicant shall designate two or more officers or board members, each of whom must meet

the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the cooperative association is authorized to do business in Montana.

~~(3) In the case of a license that permits only off-premises consumption and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:~~

~~(a) if the applicant is an individual:~~

~~(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all beverages sales;~~

~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;~~

~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~

~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;~~

~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v) authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license; and~~

~~(vi) the applicant is not under 19 years of age;~~

~~(b) if the applicant is a publicly traded corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a).~~

~~(ii) the corporation is authorized to do business in Montana;~~

~~(c) if the applicant is a privately held corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual~~

~~applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (3)(a).~~

~~(ii) the corporation is authorized to do business in Montana;~~

~~(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);~~

~~(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (3)(a).~~

~~(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (3)(a).~~

~~(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:~~

~~(a) if the applicant is an individual:~~

~~(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;~~

~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106 ;~~

~~(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;~~

~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)~~

~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license;~~

~~(v) the applicant is not under 19 years of age; and~~

~~(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage;~~

~~(b) if the applicant is a publicly traded corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a).~~

~~(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and~~

~~(iii) the corporation is authorized to do business in Montana;~~

~~(c) if the applicant is a privately held corporation:~~

~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).~~

~~(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and~~

~~(iii) the corporation is authorized to do business in Montana;~~

~~(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);~~

~~(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (4)(a).~~

~~(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (4)(a).~~

(3) The applicant and any individual of the applicant who must meet the requirements of (2)(a) must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license.

~~(5)(4)~~ In the case of a corporate applicant, the requirements of subsections (2)(b), ~~(3)(b), and (4)(b)~~ or (2)(c) apply separately to each class of stock.

~~(6)(5)~~ The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

~~(7)(6)~~ An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

- (i) poses a threat to the public interest of the state;
- (ii) poses a threat to the effective regulation and control of alcoholic beverages; or
- (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

~~(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.~~

~~(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held unless the person's rights have been restored.~~

~~(9)(7)~~ (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

(b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

(c) It is the intent of this subsection ~~(9)~~ (7) to facilitate the efficient administration of an entity licensed under this code.

~~(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.~~

~~(b) If two or more individuals through a business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held.~~

~~(c) An applicant applying for an all-beverages license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.~~

~~(d) An applicant and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.~~

~~(e) Except as provided in subsection (9), an applicant for an on-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses. This prohibition also applies to any~~

individual of the applicant who must meet the requirements of subsection (2)(a).

(f) An applicant for an off-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a).

(g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or wholesaling license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic beverage sales.

(h) An applicant for a wholesale license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage.

(9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

(b) A person with an ownership interest in a licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not also have an ownership interest in a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the retail license alcohol produced by other manufacturers that

are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing license and the retail license without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a licensee and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located."

Section 14. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 15. Effective date. [This act] is effective July 1, 2023.

- END -

I hereby certify that the within bill,
HB 305, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 305

INTRODUCED BY E. BUTTREY, K. ZOLNIKOV, L. JONES, M. HOPKINS, C. SPRUNGER

AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-105, 16-4-201, 16-4-311, 16-4-401, AND 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (H) BUSINESS AND LABOR

Call to Order: Chair Edward Buttrey-R, on January 26, 2023 at 8:31 AM, in Room 172

ROLL CALL

Members Present: Rep. Edward Buttrey, Chair (R)
Rep. Derek Harvey, Vice Chair (D)
Rep. Kerri Seekins-Crowe, Vice Chair (R)
Rep. Fred Anderson (R)
Rep. James Bergstrom (R)
Rep. Bob Carter (D)
Rep. Ross Fitzgerald (R)
Rep. Steven Galloway (R)
Rep. Steve Gist (R)
Rep. Steve Gunderson (R)
Rep. Jonathan Karlen (D)
Rep. Denley Loge (R)
Rep. Jennifer Lynch (D)
Rep. Ron Marshall (R)
Rep. Eric Matthews (D)
Rep. Nelly Nicol (R)
Rep. Greg Oblander (R)
Rep. Katie Sullivan (D)

Members Excused: Rep. Katie Zolnikov (R)

Staff Present: Jolanda Songer, Secretary
Jameson Walker, Research Analyst

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 263 01/20/2023
HB 273 01/20/2023
SB 20 01/20/2023
HB 305 01/24/2023

Executive Action:

HEARING ON HB 263 - Revise insurance coverage for prescription eyedrop refills

Opening Statement:

08:32:31 Rep. Amy Regier (R), HD 6, opened the hearing on HB 263, Revise insurance coverage for prescription eyedrop refills.

Proponent Testimony:

08:35:25 Nanette Gilberston, Executive Director, Montana Academy of Ophthalmology (MAO)

08:35:39 Rep. Katie Zolnikov joined the meeting.

08:37:15 Jean Branscum, Montana Medical Association (MMA)

08:37:52 Jennifer Hensley, Montana Optometric Association (MOA)

08:38:32 Erik Van Kuijk, Member, Montana Academy of Ophthalmology (MAO)

Opponent Testimony:

None

Informational Witness Testimony:

08:41:13 John Doran, Vice President, Blue Cross Blue Shield of Montana, External Affairs (BCBSMT)

Questions from Committee:

08:41:49 Rep. Steven Galloway

08:42:13 John Doran, BCBSMT

08:42:40 Dr. Erik Van Kuijk, MAO

08:43:26 Rep. Steven Galloway

08:43:48 Nanette Gilbertson, MAO

Closing Statement:

08:44:11 Rep. Amy Regier (R), HD 6, closed the hearing on HB 263.

HEARING ON HB 273 - Generally revise laws relating to the director of the state lottery

Opening Statement:

08:51:14 Rep. Scot Kerns (R), HD 23, opened the hearing on HB 273, Generally revise laws relating to the director of the state lottery.

Proponent Testimony:

08:52:46 Don Harris, Chief Legal Counsel, Department of Administration (DOA)

08:55:33 Kristin Juras, Lieutenant Governor, Governor's Office

08:56:22 Scott Sales, Director, Montana Lottery

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

08:57:13 Rep. Katie Sullivan

08:57:28 Don Harris, DOA

Closing Statement:

08:58:09 Rep. Scot Kerns (R), HD 23, closed the hearing on HB 273.

HEARING ON SB 20 - Generally revise laws related to alcohol

Opening Statement:

08:44:45 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 20, Generally revise laws related to alcohol.

Closing Statement:

08:48:59 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 20.

Proponent Testimony:

08:46:21 Becky Schlauch, Administrator, Department of Revenue, Alcoholic Beverage Control Division (DOR-ABCD)

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

08:47:58 Rep. Steven Galloway
08:48:13 Becky Schlauch, DOR-ABCD

HEARING ON HB 305 - Generally revise alcohol laws relating to manufacturing and retail

Opening Statement:

08:59:36 Chair Edward Buttrey (R), HD 21, opened the hearing on HB 305,
Generally revise alcohol laws relating to manufacturing and retail.

Proponent Testimony:

09:03:47 Matt Leow, Executive Director, Montana Brewers Association (MBA)
09:13:27 Jennifer Hensley, Montana Distillers Guild (MDG)
09:17:43 John Iverson, Montana Tavern Association (MTA)
09:20:55 Pat Noonan, Montana Beer and Wine Distributors Association (MBWDA)
09:22:23 Debra Pitassy, Executive Director, Montana Beer and Wine Distributors
Association (MBWDA)
09:27:56 Courtney McKee
09:27:57 Vice Chair Kerri Seekins-Crowe left the meeting.
09:29:48 Ethan Kohoutek
09:32:19 Shauna Helfert, Gaming Industry Association (GIA)
09:33:01 Tim Chisman
09:35:34 Scott Kelley

09:37:24 Sam Hoffman

09:39:13 Ryan Montgomery, President, Montana Distillers Guild (MDG)

Opponent Testimony:

None

Informational Witness Testimony:

09:40:45 Becky Schlauch, Administrator, Department of Revenue, Alcoholic Beverage Control Division (DOR-ABCD)

Questions from Committee:

09:41:05 Rep. Bob Carter

09:41:29 Rep. Edward Buttrey-R

09:41:50 Rep. Bob Carter

09:42:21 Matt Leow, MBA

09:43:18 Rep. Ron Marshall

09:43:40 Rep. Edward Buttrey-R

09:43:53 Rep. Denley Loge

09:44:32 Matt Leow, MBA

09:45:15 Rep. Greg Oblander

09:46:10 Rep. Edward Buttrey-R

09:46:57 Rep. Steven Galloway

09:47:24 Rep. Edward Buttrey-R

09:48:14 John Iverson, MTA

09:49:10 Rep. Steven Galloway

09:50:12 Rep. Katie Sullivan

09:50:28 Jennifer Hensley, MDG

09:53:39 Rep. Bob Carter

09:54:11 John Iverson, MTA

09:55:35 Rep. Bob Carter
09:56:19 Vice Chair Derek Harvey
09:56:41 Rep. Steven Galloway
09:57:14 Rep. Edward Buttrey-R
09:57:43 Rep. Steven Galloway
09:57:56 Rep. Edward Buttrey-R

Closing Statement:

09:58:17 Chair Edward Buttrey (R), HD 21, closed the hearing on HB 305.

ADJOURNMENT

Adjournment: 10:00:12

Jolanda Songer, Secretary

Additional Documents: [EXHIBIT\(230126BUHaad\)](#)

MINUTES
MONTANA SENATE
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (S) BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chair Jason Small-R, on March 16, 2023 at 8:30 AM, in 422

ROLL CALL

Members Present: Sen. Jason Small, Chair (R)
Sen. Willis Curdy, Vice Chair (D)
Sen. Mark Noland, Vice Chair (R)
Sen. Mike Fox (D)
Sen. Bruce Gillespie (R)
Sen. Walt Sales (R)

Members Excused: Sen. Jason Ellsworth (R)
Sen. Steve Fitzpatrick (R)
Sen. Christopher Pope (D)
Sen. Terry Vermeire (R)

Staff Present: Lynnette Sena, Secretary
Erin Sullivan, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 156 03/13/2023
HB 164 03/13/2023
HB 305 03/13/2023
HB 336 03/13/2023
HB 353 03/13/2023

Executive Action:

HB 156
HB 336
HB 353

HEARING ON HB 353 - Revise barber and cosmetology occupational licensing laws

Opening Statement:

08:30:42 Rep. Jennifer Carlson (R), HD 69, opened the hearing on HB 353, Revise barber and cosmetology occupational licensing laws.

Discussion:

[EXHIBIT\(230316BUSa1\)](#)

Proponent Testimony:

08:33:08 Jessica Poitras, Institute for Justice (IJ)

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

08:36:13 Chair Jason Small

08:36:15 Sen. Bruce Gillespie

08:36:30 Rep. Jennifer Carlson-R

Closing Statement:

08:37:25 Rep. Jennifer Carlson (R), HD 69, closed the hearing on HB 353.

08:39:09 Sen. Vermeire has arrived

08:50:51 Vice Chair Noland has left

HEARING ON HB 156 - Generally revise laws enforced by the State Auditor

Opening Statement:

08:39:06 Rep. Edward Buttrey (R), HD 21, opened the hearing on HB 156,
Generally revise laws enforced by the State Auditor.

Proponent Testimony:

08:44:45 Frank Cote, State Auditor's Office

08:45:42 Aimee Grmoljez, American Property and Casualty Insurance Association
of America

08:46:20 Greg Van Horssen, State Farm Insurance

08:46:43 Scott Reichner, Blue Cross Blue Shield

08:47:10 Melissa Shannon, Pacific Source Health Plans

08:47:37 John Iverson, Independent Insurance Agents of Montana

08:47:53 Michelle Truax, Inspector General Office

Opponent Testimony:

None

Informational Witness Testimony:

08:49:00 Barbara Smith, Senior Long Term Care Division

Questions from Committee:

08:49:24 Sen. Bruce Gillespie

08:49:53 Frank Cote, Auditors Office

08:50:40 Vice Chair Willis Curdy

08:51:13 Frank Cote, Auditors Office

08:52:56 Sen. Walt Sales

08:54:33 Frank Cote, Auditors Office

Closing Statement:

08:55:28 Rep. Edward Buttrey (R), HD 21, closed the hearing on HB 156.

09:23:30 Vice Chair Noland has arrived

HEARING ON HB 305 - Generally revise alcohol laws relating to manufacturing and retail

Opening Statement:

08:58:02 Rep. Edward Buttrey (R), HD 21, opened the hearing on HB 305,
Generally revise alcohol laws relating to manufacturing and retail.

Proponent Testimony:

09:02:03 Matt Leow, Montana Brewers Association (MBA)
09:12:19 Jennifer Hensley, Montana Distillers Guild (MDG)
09:16:55 Debra Pitassy, Montana Beer and Wine Distributors Association
09:19:24 John Iverson, Montana Taverns Association (MTA)
09:20:01 Ethan Quoter, Montana Brewers Association (MBA)
09:21:58 Shana Helfert, Montana Gaming Institution
09:22:23 Tim Chisman, Blackfoot River Brewing Company

Opponent Testimony:

None

Informational Witness Testimony:

09:24:18 Becky Schlauch, Department of Revenue (DOR)

Questions from Committee:

09:25:47 Chair Jason Small
09:26:02 Rep. Edward Buttrey-R
09:26:36 Vice Chair Willis Curdy
09:27:15 Becky Schlauch, DOR
09:27:28 Vice Chair Willis Curdy
09:28:17 Matt Leow, MBA
09:29:10 Vice Chair Willis Curdy
09:29:27 Becky Schlauch, DOR
09:30:01 Vice Chair Mark Noland

09:31:01 Becky Schlauch, DOR

Closing Statement:

09:31:46 Rep. Edward Buttrey (R), HD 21, closed the hearing on HB 305.

HEARING ON HB 336 - Provide licensure exemptions for military family child care providers

Opening Statement:

09:33:56 Rep. Edward Buttrey (R), HD 21, opened the hearing on HB 336, Provide licensure exemptions for military family child care providers.

Discussion:

[EXHIBIT\(230316BUSa2\)](#)

Proponent Testimony:

09:35:56 Roger Hagan, American Legion and Montana National Guard

09:37:11 Jody Lehman, Department of Public Health and Human Services (DPHHS)

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

09:39:11 Vice Chair Mark Noland

09:39:50 Rep. Edward Buttrey-R

09:41:06 Chair Jason Small

Closing Statement:

09:41:19 Rep. Edward Buttrey (R), HD 21, closed the hearing on HB 336.

HEARING ON HB 164 - Revise alcohol laws relating to catering endorsements

Opening Statement:

09:43:28 Rep. Derek Harvey (D), HD 74, opened the hearing on HB 164, Revise alcohol laws relating to catering endorsements.

Proponent Testimony:

09:45:09 Becky Schlauch, Department of Revenue (DOR)

09:47:24 Brad Griffin, Montana Restaurant Association (MRA)

09:49:39 John Iverson, Montana Tavern Association (MTA)

09:49:58 Shauna Helfert, Montana Gaming Association (MGA)

09:50:09 Matt Leow, Montana Brewers Association (MBA)

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

09:51:05 Vice Chair Willis Curdy

09:52:50 Becky Schlauch, DOR

Closing Statement:

09:53:15 Rep. Derek Harvey (D), HD 74, closed the hearing on HB 164.

EXECUTIVE ACTION ON HB 156 - Generally revise laws enforced by the State Auditor

09:55:51 **Motion:** Vice Chair Mark Noland moved that **HB 156 BE CONCURRED IN.**

Discussion:

09:56:05 Chair Jason Small

13:48:12 **Vote:** Motion carried unanimously by voice vote.

09:55:51 **Carrier Assigned:** Sen. Steve Fitzpatrick

EXECUTIVE ACTION ON HB 336 - Provide licensure exemptions for military family child care providers

09:57:11 **Motion:** Vice Chair Mark Noland moved that **HB 336 BE CONCURRED IN.**

Discussion:

09:58:30 Sen. Walt Sales

09:58:36 Sen. Mike Fox

13:48:12 **Vote:** Motion carried unanimously by voice vote.

09:57:11 **Carrier Assigned:** Sen. Willis Curdy

EXECUTIVE ACTION ON HB 353 - Revise barber and cosmetology occupational licensing laws

09:58:54 **Motion:** Vice Chair Mark Noland moved that **HB 353 BE CONCURRED IN.**

13:48:12 **Vote:** Motion carried unanimously by voice vote.

09:58:54 **Carrier Assigned:** Sen. Bruce Gillespie

ADJOURNMENT

Adjournment: 10:00:12

Lynnette Sena, Secretary

Additional Documents: [EXHIBIT\(230316BUSaad\)](#)